

REMARKS

Reconsideration of the Application as amended is respectfully requested.

The present invention is based upon a relatively simple observation made by Applicant from years of experience in the field of insurance and the processing of various insurance claims involving great amounts of forms, paper-work, and time.

The basis of Applicant's invention is in developing a computerized data gathering system in a manner of providing a simplified health-care service to consumers seeking convenient services.

The operation comprises gathering and compiling data from pertinent customers and medical and insurance providers to be accessible to customers in a manner to set up initial and direct contact and negotatiation.

The consumer has an option to choose a service or provider for services he wishes in relation to what is most convenient to consumer from the various geography, religious, family needs, and travel preferences and suitabilities.

Thus, the operator of the service provides a consumer with the ability to have reasonable market control of his services. The operator of the service is able to make such recommendations from accessibility of various Internet data, and choose closely in accordance with the consumer's needs and preferences.

The consumer is placed in contact, for a fee, with the most convenient medical providers, hospital providers, and insurance companies. The operator initially chooses a plurality of proper providers. Thus, the method provides a good point of reference for the consumer by which he is able to determine his most convenient position.

The Examiner had rejected all the Claims under 35 USC 102 over Joao.

Applicant respectfully contends that Joao does not disclose an invention identical to Applicant's invention.

Under 35 USCA 102, as quoted in Congoleum Industries, inc. v. Armstrong Cork Co., EDPa 1972, 339 F.Supp 1036: "Anticipation is technical defense which must be strictly construed, and this section relating thereto can be used to prevent patentability only where

invention is "identically disclosed" by prior art; test is whether prior reference contains, within its four corners, adequate directions for practice of patent claim sought to be invalidated, and process or product which would infringe, if later than disputed patent, anticipates if earlier."

With his unending recitation of computer components, databases, person, and organizations associated with every phase of health-care information, treatment, research, diagnosis, and, as Joao states: "data and/or information from any combination and/or all of the participants in the healthcare field".

However, as he states in Claim 1, his invention is an "improvement" comprising a process related to the generation of a diagnostic report eventually providing a "final diagnosis".

Thus, his invention is actually restricted, under the terms of Title 37 CFR Sec. 1.71, (b) and (c) to the specific "improvement" described therein.

Therefore, Applicant's Attorney understands that all other comments expressed in Joao are strictly excess verbiage, and not actual description of his invention.

This is exactly what Applicant's Attorney sees as to the main limitation in the patent to Joao. As recited above, Joao made his own limitation by his statement in Claim 1, that his invention is an "improvement", and then specifies the limited field of invention to the purpose of developing a "final diagnosis".

Again, under 35 USCA 102, Note 58, Beatty Safway Scaffold Co. v. Up-Right, Inc., CA9(Or) 1962, 306 F2d 626, 134 USPQ 379, "Whether a device comprises a patentable improvement over prior art is ultimately a question of law based upon rule that mere aggregation of number of old parts or elements which produce no new or different function than that theretofore performed is not patentable invention, but where there is substantial evidence of uniting old parts or elements in such manner that they may produce a new function, question of fact as to whether they do so may upon such evidence be submitted to jury."

Applicant is led to presume that Joao is attempting to recite patent processes which cover and control the entire computerized health-care industry, by referring to data, symptom information, condition information, health-care information, various diagnostic reports, patient and doctor records, distribution and management of all phases of insurance, including provision of health claims, clinical records, all phases of claim processing, insurance policy generation, drug and treatment interactivity, organ availability, ad infinitum.

Then, Joao eventually limits his coverage to the establishment and record distribution of diagnostic reports in a manner that a final diagnostic report may be made available to a health-care provider wherein a claim form may be submitted to a health-care payer and health-care insurer.

In effect, Joao's method is apparently to collect and record all health condition information regarding a patient in order for the computer device to generate and deliver a final diagnosis report to a final person of interest.

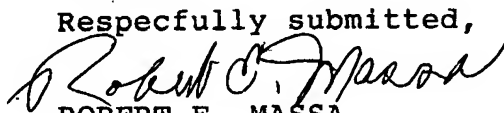
In further reference, as in 69 CJS Patents 49: "The prior patent must disclose how the desired result can be obtained. An invention is not anticipated by the earlier issuance of a patent containing mere suggestion or prophecy of what may be done, what ought to be accomplished, or vague, indefinite, general, or ambiguous references to the subject matter of the invention.

In other words, the disclosure in Joao is in such complete, total, all-encompassing description, covering every possible person, organization, procedure, action, diagnosis, data and/or information, any and/or all participants in the health-care field, that it might be analyzed as a complete anticipatory document for any and all future developments in the health-care field.

Joao is therefore completely different from Applicant's invention, which applicant has described in clear, concise language, in order to have an invention to be easily understood by everyone looking for a unique and convenient operation.

Therefore, Applicant believes he has clearly distinguished his invention from that of Joao, and, therefore, respectfully requests allowance of all his Claims.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert E. Massa", written over the typed name.

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REM/m